

JAN 18 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUITER NAIBAHO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-73615

Agency No. A79-327-022

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 14, 2008^{**}

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Juiter Naibaho, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order affirming without opinion an Immigration Judge's ("IJ") decision denying his application for asylum, withholding of removal

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Padash v. INS*, 358 F.3d 1161, 1165 (9th Cir. 2004), and we deny the petition for review.

Even assuming Naibaho was credible, substantial evidence supports the IJ’s conclusion that Naibaho failed to establish past persecution or a well-founded fear of persecution on account of a protected ground. *See Sangha v. INS*, 103 F.3d 1482, 1486 (9th Cir. 1997); *see also INS v. Elias-Zacarias*, 502 U.S. 478, 481-82 (1992). Naibaho provided insufficient evidence, direct or circumstantial, that his attackers were or would be motivated to persecute him because of his actual or perceived status or belief. *See Sangha*, 103 F.3d at 1486-87.

Moreover, Naibaho did not establish that any group to which he belongs is subject to a “pattern or practice” of persecution. *See Lolong v. Gonzales*, 484 F.3d 1173, 1178-80 (9th Cir. 2007) (en banc).

Because Naibaho did not establish eligibility for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Finally, substantial evidence also supports the IJ’s denial of CAT relief because Naibaho did not establish that it is more likely than not that he will be

tortured if returned to Indonesia. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.